

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21019

Application 30300 of Rock Spring Ranches, LLC
 C/O Roger Primm
 5100 Franktown Road
 Carson City, NV 89704

filed on October 28, 1993, has been approved by the State Water Resources Control Board SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source

Smoke Creek

Tributary to

Smoke Creek Desert, a closed basin in Nevada

within the County of Lassen

2. Location of point of diversion

By California Coordinate System in Zone #	40-acre subdivision of public land survey or projection thereof	Section (*Projected)	Township	Range	Base and Meridian
South 160 feet and East 2,530 feet from NW corner of Section 24	NE¼ of NW¼	24	32N	17E	MD

3. Purpose of use	4. Place of use	Section	Township	Range	Base and Meridian	Acres
Irrigation, Sackwatering, Recreation	¼ of ¼	24, 25, 26	32N	17E	MD	1678 Acres* within gross area of 3160 Acres
		30, 31	32N	18E	MD	
		5, 6, 7, 8, 9, 15, 16, 17	31N	18E	MD	

* Approximately 275 acres of the irrigated area is located in California and the remainder of the irrigated land is located across the state line in Nevada.

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 1300 acre-feet per annum to be collected from **January 1** of each year to **December 31** of the succeeding year. (0000005)
6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
7. Complete application of the water to the authorized use shall be made by December 31, 2008. (0000009)
8. Prior to making a request for license or before license action will be considered by the State Water Resources Control Board, permittee shall consult with the Division of Water Rights and perform an irrigation system evaluation. A report on the evaluation shall be prepared by a person trained or experienced in irrigation system design and management and shall be submitted to the Board for approval.

All cost-effective water conservation measures identified in the irrigation system evaluation report shall be implemented prior to issuance of a license. (0000029C)

9. Permittee shall maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the stream channel or provide other means satisfactory to the Chief of the Division of Water Rights in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. (0050043)
10. Permittee shall maintain a 100 acre-foot minimum pool of water in the reservoir at all times for the protection of fish and wildlife, unless an emergency condition or essential reservoir maintenance requires reducing reservoir storage below 100 acre-feet. Prior to reducing reservoir storage to less than 100 acre-feet, permittee shall consult with the California Department of Fish and Game. Permittee shall allow the Department of Fish and Game reasonable access to the reservoir for purposes of verifying staff gage readings and to monitor water levels in the reservoir. Reasonable access for the purpose of this permit term may be further defined by agreement between the Department of Fish and Game and Permittee. For the purpose of this permit term, the need for water for irrigation shall not be considered to constitute an emergency condition and permittee shall regulate irrigation releases in order to maintain a 100-foot minimum pool throughout the year. (0390500)
(0070047)
11. Permittee shall install and properly maintain in the reservoir a staff gage, satisfactory to the Chief of the Division of Water Rights, for the purpose of determining water levels in the reservoir. Permittee shall record sufficient staff gage readings to document compliance with the requirement to maintain a 100 acre-foot minimum pool in the reservoir. Such readings shall be included in the permittee's annual progress reports to the State Water Resources Control Board. To ensure proper installation and use of the staff gage, an area-capacity curve must be formulated for the reservoir. The reservoir's area-capacity curve must be prepared by a professional land surveyor or engineer. (0070047)
(0100047)
12. This permit is subject to Certificate 14970 issued to the U.S. Bureau of Land Management (BLM) by the State of Nevada. Permittee shall bypass water at the dam which, together with accretions to Smoke Creek between the reservoir and BLM's place of use, is sufficient to provide a minimum flow of 5 cubic feet per second at BLM's place of use on Smoke Creek located South 89° 29' West; 558.44 feet from the SW ¼ of the SE ¼ of Section 15; T31N, R18E, MDB&M. If the inflow to the reservoir, together with accretions to Smoke Creek between the reservoir and BLM's place of use, is less than the amount required to satisfy Certificate 14970, the entire amount of inflow shall be bypassed. Permittee is not required to release previously stored water in order to provide water for satisfaction of BLM's right under Certificate 14970. Permittee shall allow BLM reasonable access to monitor reservoir levels, inflow to the reservoir, and outflow from the reservoir. (Modified Permit Term T.) For the purpose of this permit term, reasonable access means advance notice of between 24 hours and 7 days by BLM of its intent to inspect, unless modified by subsequent agreement between BLM and Permittee. (0160051)
(000T001)
13. Permittee shall install or contract to use devices owned by others, which are capable of measuring inflow to the reservoir and the flows needed to satisfy BLM's right under Nevada Certificate 14970. Said measuring devices shall be properly maintained. Within three months of permit issuance, permittee shall submit plans of said measuring devices for approval by the Chief of the Division of Water Rights. Permittee shall have the measuring devices operational within three months of the approval date. (0060062)

**ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE
SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

- (A) Permittee shall maintain records of the amount of water diverted and used to enable the State Water Resources Control Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.
- (B) The amount authorized for appropriation may be reduced in the license if investigation warrants.
- (C) Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued.
- (D) Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.
- (E) Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

- (F) The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.
- (G) This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain an incidental take permit prior to construction or operation. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

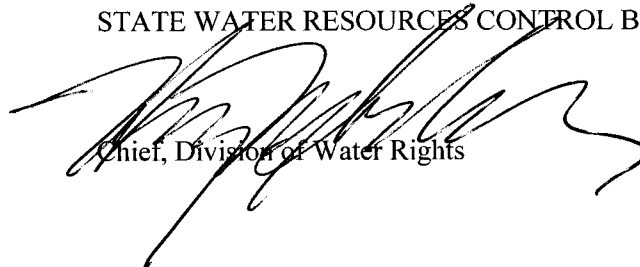
Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: **JAN 26 2000**

STATE WATER RESOURCES CONTROL BOARD


Chief, Division of Water Rights